FIQH AND FUQAHA

An Introduction to Fiqh.
Containing
Forty Four Life Sketches of the
Great Past Masters



THE
WORLD
FEDERATION
OF KHOJA SHIA ITHNA-ASHERI MUSLIM COMMUNITIES

Fiqh and Fuqaha

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PREFACE

DIVERSITY IN THE TOPICS OF FIQH

If we study the subjects of FIQH in detail, we find that every one of them is peculiar and singular in itself. There may seem to be some similarity at , first glance, but a deeper study reveals a different aspect contained. It meets with the requirements of all walks of human life.

Some of the laws relate to the natural urge in human beings to adore and worship. It guides us to worship none but Allah, in the prescribed form, seeking His pleasure. Then there are laws which prompt us to serve, be helpful and useful to human society, at the same time affirming our obedience to Allah. These are Zakat, Khums, our social and political duties, Jihad, Amr bil Ma'roof and Nahy anil Munkar, training in martial arts etc.

Other laws enunciate man's duties towards oneself like refraining from suicide or harming oneself or even avoiding celibacy. Certain laws deal with human life in relation to nature surrounding him like food, drinks, hunting, slaughtering, dresses, use of utensils and so on. Then there are laws of judiciary, requital and compensation. As for personal life, Fiqh guides us in matters of NIKAH, TALAQ, DHIHAR, and LIAN. In matters of economy and earning one's bread, there are rules governing business, partnership, silent partnerships, bankruptcy etc. Fiqh also deals with such versatile acts like Haj which apart from being an act of worship, is an opportunity of unity, collaboration and an international conference.

In spite of this diversity, FIQH has one single aim. To lead human beings to happiness on earth, conjoining it with salvation in the hereafter. Therefore, FIQH is considered as one, composite science of ISLAM and is taught as such in the Hawzas. The basis of FIQH is the Holy Quran, the sound Traditions, Consensus and Reason. A FAQEEH looks at the diverse component of FIQH as parts interwoven into one fabric, with a single aim to guide mankind in respect of its duties and responsibilities towards Allah.

CHAPTER 1

FIQH

This system commonly known as ILM-UL-FIQH, is extensive, covering a very wide range; and its history dates back to the earliest Islamic era. It has been taught with great detail and ramifications in every era, producing several jurisconsults of repute during every century. Among the jurists, known as FAQIH (pl. Fuqaha) some were genius. A number of volumes have appeared to elucidate the Islamic jurisprudence, some of them are masterly treatment of the laws on every walk of human life.

Most of the problems confronting human society are dealt with by various laws, like, the civil laws, the family laws, the penal code, the management laws, and so on. Fiqh deals with all of them under various chapters, and in different names. Moreover, it deals with such laws which are not covered by the modern day laws, like the ones related to the acts of worship. Because of a very wide range of subjects covered by Fiqh, it actually includes numerous faculties which are normally learnt separately today.

The term 'FIQH' in the Quran & Hadith

The word 'FIQH' and its derivation 'TAFAQQUH' has been extensively used in the Quran and Hadith, and in almost all cases it denotes in-depth study and profound understanding. The Quran says:

"If a group of people from every tribe stayed behind to study (and ponder on) the religion, (they would be able) to warn and admonish their people when they return to them so that they are cautious." (Al-Tawbah. V.122)

And the Prophet (s.a.w) is reported to have said:

"Whoever commits forty Hadith for the sake of my Ummah shall be resurrected by *Allah as a learned FAQIH."*

It is not known whether the term FAQIH was applied to the learned companions of the Prophet (s.a.w). However, we certainly know that the generation which followed the companions, known as TABE'EEN, used this appellation for a number of scholars among them. There were for example, seven great jurists among them who are known as 'FUQAHA

SAB'AH' i.e. the seven fuqaha. The year 94 A.H. was known as 'SANATUL FUQAHA' (the year of the Fuqaha) because in that year, together with our fourth Imam, Ali b. Hussain (A. S.), great jurists like Saeed b. Musayyab, Urwah b. Zubair, Saeed b. Jubayr and others died. Thereafter, great Islamic scholars, particularly the jurists were commonly classified as Fuqaha.

Our Imams (peace be upon them) have used the term Faqih quite often. Some of their companions were recommended to study religion thoroughly and become Faqih, and when they attained that degree of knowledge, they were called FUQAHA. We know of quite a few students of our Imams (A.S.) who were known as Shiah Fuqaha by their contemporaries.

The term FAQIH as elucidated by Islamic Scholars.

In the Quran and Hadith, Fiqh denotes profound understanding and knowledge of Islamic fundamentals and laws, and is not confined to any particular branch of religious sciences. But with the passage of time, the word become synonymous with the knowledge of Islamic laws and jurisprudence.

The Ulema have divided Islamic teachings into three groups:

Principles of Faith - These are the fundamentals which are related to one's faith, like the belief of God, the resurrection and the Day of Judgement, the Prophethood, the divine revelation, the Angels, the Imamat.

Moral behaviour and ethics - These are aimed at improving human behaviour) and cultivating spiritual aspects of our existence. They deal with TAQWA, Justice, Generosity, Bravery, Patience, Submission to the Will of Allah, and so on.

Practical laws - These deal with the rules and regulations laid down for certain acts, and also provide guidelines for the way these acts be performed.

The Fuqaha of Islam have restricted the use of the word FIQH to the third category, perhaps because it has been a matter of popular concern, and that the believer sought such guidance more often. This is why men of proficiency in this branch of Islamic knowledge only came to be known as 'FUQAHA'.

Hukme TAKLIFI & Hukme WADH'EE

It is important that we are acquainted with some of the terminologies used by FUQAHA in relation to Islamic laws. The divine laws are divided by them in two groups: TAKLIFI and WADH'EE.

TAKLIFI laws are WAJIB, HARAM, MUSTAHAB, MAKROOH and MUBAH. These are five aspects of Islamic laws which a Muslim has to keep in mind while discharging his obligations.

In Islam, every human act will fall in one of these five categories. There are acts which are WAJIB, which must be performed as an obligation, like the daily prayers, as opposed to those which are HARAM and forbidden, like speaking lies, being unjust, intoxication, and so on. Then there are acts which are optional. They are recommended acts which are rewarded, but if not performed, no sin is committed. The example is optional prayers (NAFILAH) which either precede or follow the daily prayers. On the other hand, there are certain unworthy acts, i.e. MAKROOH, which a Muslim is advised to avoid, but no sin is committed if he engages in them, like talking about worldly affairs in the Mosque which is supposed to be a place of worship. Besides, there are acts which are MUBAH, meaning permissible acts, doing or not doing of them does not entail any reward or punishment.

Thus, we see that Taklifi laws are based on 'do's' and 'don'ts', enjoining, forbidding, or generally permitting a Muslim.

WADH'EE laws are an amalgam of temporal and divine laws, partly governed by natural or moral duties, like matrimony, proprietorship, contracts and so on.

TA'ABBUDI and TAWASSULI

The obligatory (WAJIB) acts are of two types: TA'ABBUDI and TAWASSULI.

Those Wajib acts which must be performed with a vivid and clear intention (NIYYAT) of earning the pleasure and proximity of Allah (QURBAT) are TA'ABBUDI. Such a niyyat is a prerequisite, in absence of which the act would be considered invalid. The examples are all acts of worships, like the daily prayers, fasting etc.

But there are other obligations which do not necessarily require the intention of QURBAT for their validity, like obedience to the parents, fulfilling promises and pledges, honouring the contracts, performing incumbent social responsibilities and so on.

AYNI & KIFAI

WAJIB acts have been further classified as AYNI and KIFAI:

Wajib-e-Ayni are those obligatory acts with which every individual Muslim is charged, like the daily prayers and fasting during the month of Ramadhan. But Wajib-e-Kifai remains a collective obligation on the general Muslim populace, until it is performed by one or few among them, thus relieving the rest of the obligation.

Like the social obligations of qualifying as a doctor, becoming a soldier, a judge, a farmer or a businessman, and in this form of obligation is included the rituals of Ghusl-e-Mayyit, kafan and burial etc.

TA'YINI & TAKHYIRI

This is yet another classification of WAJIB acts. Wajib-e-Ta'yini relates to those particular acts which have been specifically identified as obligatory, like the daily prayers, fasting, Haj, Khums, Zakat, Amir bil Maroof, Jehad etc. But Wajib-e-Takhyiri offers choice and alternatives, like in the case of kaffara for a person who has deliberately left out a fast in the month of Ramadhan. He will either free a slave, or feed sixty deserving poor, or keep sixty fasts.

NAFSI & MUQADDAMI

In this classification, NAFSI Wajib acts are those which are obligatory by themselves, and are not a prelude to another obligation. For example, it is Wajib to rescue a person who is on the verge of being burnt, drowned or harmed to death.

Muqaddami obligation, besides being Wajib itself, is actually a mean to performing another Wajib act. For example, it is Wajib to rescue a person who has fallen into a well, but preparing for the rescue by way of procuring a rope or any other implement is a Muqaddami Wajib. Similarly, Haj is a NAFSI Wajib, but attending to its prerequisites like getting a passport, buying the tickets, and other necessary preparations will be termed Muqaddami. In the case of the daily prayers, for example, Wudhu and Ghusl at the time of the prayers would be called Muqaddami.

CHAPTER 2

THE FUQAHA

To understand any system thoroughly, it is imperative to get acquainted with its scholars, particularly those who have made significant contribution to its development. And in the course of that study, one comes across their important works which over a period have become the sources of reference.

Ilmul Fiqh was meticulously recorded to form a valuable literature during the last eleven centuries, which still exists, and has been constantly studied in the Islamic seminaries. Eminent scholars were able to train numerous students who in turn trained their students in this branch of Islamic knowledge. This tutor-pupil chain has remained unbroken till today.

No doubt, other sciences like Philosophy, Logic, Mathematics and Medicine are much older and volumes written on those topics date much earlier. Yet they cannot be compared to FIQH which has been a growing science with a continuous line of tutor-pupil relationship. Of course, we make this assertion keeping the Islamic colleges in view. It has been a fortunate practice of Muslim scholars that they always identified great scholars according to the generation to which they belonged. This was first done in respect of Ulama of Hadith, to be followed later for the Ulama of other branches of Islamic learnings. Special books were written to categorise the generations, like TABAQATUL FUQAHA by Abu Ishaq Shirazi, TABAQATUL ATIBBA by Ibn Abi Usayaba, TABAQATUL NNAHWIYYIN and TABAQATUL SSUFIYYA by Abu Abd al-rahman Silmi.

However, as far as the generation of FUQAHA is concerned, the works which exist are those written by Sunni scholars. We do not know of any Shia work on the subject, with the result that we have to rely on various biographical sketches and other books of IJAZAT wherein tutors have certified the abilities of their pupils and allowed them to transmit the Traditions further to their students.

In the following paragraphs, we wish to acquaint ourselves with some of the most outstanding FUQAHA of Shia sect, together with their notable contributions. In so doing, we hope to identify them in accordance with the generations to which each belonged.

SHIA FUQAHA

For two obvious reasons, we have to begin the history of Shia FUQAHA from the era of GHAYBAT-e-SUGHRA, i.e. minor occultation. (260 AH - 329 AH). First, the era preceding GHAYBAT-e-SUGHRA is an era during which the holy Imams were present, and although there were many men of knowledge and accomplishments who were trained by the Imams themselves, people always tried their best to refer to the Imams rather then to the Ulama. Even the Ulama travelled far and wide to reach the Imams, so as to solve the problems they faced. Thus, in the era when Imams were present and accessible, other scholars were eclipsed. Secondly, the literature we have at our disposal on FIQH commences from the era of GHAYBAT-e-SUGHRA. We cannot trace, or rather are unable to trace, any literature compiled on the subject in the earlier era.

However, many great FUQAHA lived in the period of our holy Imams, and they are well known for their distinction and excellence when compared to their contemporaries from other schools of thought. Ibn al-Nadeem in his famous AL-FIHRIST has a complete chapter on the FUQAHA of Shia, and mentions their works on FIQH or Hadith with deep reverence. For example, for Husain b. Saeed Ahwazi, he says: " In his time, he had the widest knowledge of FIQH, Islamic Traditions and Ethics". Similarly, he eulogises Ali b. Ibrahim Qummi by saying: "He is among the great scholars and FUQAHA". Again, when mentioning Muhammad b. Hasan b. Ahmed b. al-Waleed Qummi, he says: "To his credit is the great and comprehensive work on FIQH".

It must be known that the works on FIQH to which reference has been made above were of a different nature. They were principally compilation of those Hadith which they believed to be sound and authentic and according to which they acted. So, they can safely be categorised as the books of Hadith bearing a stamp of the writers' considered opinions.

Muhaqqiq Hilli, the maternal uncle and teacher of Allama Hilli writes:

"In view of the fact that we have a great number of FUQAHA who have copiously written on the subject, it is not possible for me to quote all of them. I have selected from those who were best known for their research and scholarship, quoting their Ijtehad, and the opinions they adopted for action. From amongst the earlier ones, I have selected Hasan b. Mahboob, Ahmed b. Abi Nasr Bezanti, Husain b. Saeed Ahwazi, Fadhl b. Shadhan Nisaburi, Yunus b. Abd al-Rahman. They lived during the presence of our Imams. From the later group, I quote Muhammad b. Babawayh Qummi (popularly known as Shaikh Sadooq) and Muhammad b. Yaqoob Kulaini. As for the people of Fatwa, I consider the verdicts of Askafi, Ibn Abi Aqeel, Shaikh Mufeed, Seyyid Murtadha Alamul Huda and Shaikh Tusi."

Evidently, Muhaqqiq Hilli, despite his high regard for the earlier Ulama and for their independent opinions, excludes them from those who he calls "the people of Fatwa". This is because the earlier Ulama wrote books in the form of collections of Hadith, indirectly indicating their opinions and verdicts by the selection of those Traditions which they

considered sound. Their works never came out in the form of clear and direct fatwa.

Now we will mention the Juristconsults of the early period; those who witnessed Ghaybat-e-Sughra:

l. **Ali b. Babawayh Qummi,** died in 329 AH., and was buried in Qum. His son, the famous Shaikh Sadooq is buried in the city of RAY. What must be noted is that while the son is famous as MUHADDITH (TRADIONIST), the father is a renowned FAQIH, and a man of FATWA.

Sometimes, reference is made to both of them as SADOOQAIN meaning two Sadooqs.

2. Another great jurist, who was the contemporary of Ali b. Babawayh Qummi, or perhaps a bit senior, is **Ayyashi Samarkandi.** Though he is better known for his TAFSEER, he was a man of diverse capabilities, having made an appreciable contribution to fiqh. Ibn al-Nadeem in his al-Fihrist says that AYYASHI'S works on Fiqh were well known in Khurasan. Unfortunately, we have no access to any of his books on Fiqh. It seems they have all perished.

AYYASHI was originally a Sunni who later converted to become a Shia. He was a rich man, having inherited considerable wealth from his father. But he invested all his wealth in collecting books, copying important manuscripts and in establishing colleges for training his students.

Some chroniclers have included Shaikh Jaffer b. Qawlawayh among the Fuqaha, considering him to have lived during the times of Ali b. Babawayh Qummi and Ghaybat-e-Sughra. They have also mentioned him as a student of the well known Sa'd b. Abdullah Ashari. But this is an error, since Ibn Qawlawayh was the teacher of Shaikh Mufeed, and his death occurred in either 367 or 368 AH. As such, he cannot be counted as a contemporary of Ali b. Babawayh, nor among the Ulama of Ghaybat-e-Sughra. The fact is that it was his father Muhammad b. Qawlawayh who lived during Ghaybat-e-Sughra.

3. **Ibn Abi Aqeel Ummani.** This Umman is on the coast of YEMEN, and therefore he was also known as YEMENI. He lived during Ghaybat-e-Kubra, (major occultation) but the date of his death is not known.

Bahr-ul-Ulloom mentions him as the teacher of Jafar b. Qawlawayh who in turn taught Shaikh Mufeed. This makes it abundantly clear that Jafar b. Qawlawayh was not a contemporary of Ali b. Babawayh as claimed by some. Ibn Abi Aqeel is still quoted in FIQH by research scholars.

4. **Ibn Junaid Askafi** who died in 381 AH, was also Shaikh Mufeed's tutor. He authored nearly fifty books, and his opinions as a Jurist are still considered and discussed by the

FUQAHA. In fact, he and the above mentioned Ibn Abi Aqeel are often referred to as "ALQADEEMAIN", "the two old and senior ones".

5. **Shaikh Mufeed,** whose name was Muhammad b. Muhammad b. Noman. He was a theologian as well as a Faqih. Ibn al-Nadeem in his al-Fihrist calls him 'Ibn al-Muallim', and eulogizes him as a great theologian (master of Ilmul Kalam). Born in 334 AH., he died in 413 AH. His famous work on FIQH is known as 'MUQNI'AH' which still exists. Shaikh Mufeed is one of the most brilliant scholars of Islam.

Abu Yala Ja'feri, the son-in-law of Shaikh Mufeed, says: "Mufeed slept very little during the nights, devoting most of his time to prayers, studies, teaching or reciting the Holy Quran " .

Shaikh Mufeed is a student of Ibn Abi Aqeel's student.

6. **Seyyid Murtadha Alamul Huda,** born in 355 AH, died in 436 AH. Allama Hilli calls him "the great teacher of Imamiyya Shia" . He was a man of versatility, with a keen taste and talent for literature, theology as well as FIQH. His verdicts and opinions are taken into account even today. Among his famous works on Fiqh are 'INTISAR', and 'JAMALUL ILMI WAL AMAL'. Seyyid Radhi, the compiler of NAHJUL BALAGHAH was his brother, and they both studied from Shaikh Mufeed.

7. **Shaikh Abu Ja'fer Tusi,** the brilliant star in the Islamic firmament, was from KHURASAN. He was born in 385 AH., and at the age of 23, he moved to Baghdad to join the great centre of Islamic knowledge. He lived in Iraq all his life, and came to be known as the sole master of FIQH after the death of his mentor, Seyyid Murtadha Alamul Huda. He has several books and treatises on FIQH, USOOL, HADITH, TAFSEER, KALAM and RIJAL.

For the first five years in Baghdad, Shaikh Tusi had the opportunity to study under the supervision of Shaikh Mufeed, gaining reputation as a student of the first rank. After Shaikh Mufeed, he sat at the feet of Seyyid Murtadha till the master died in 436 AH. The entire Shia world turned to Shaikh Tusi who stayed at the helm for the ensuing 24 years. But this was a tumultuous period during which sectarian differences in Baghdad resulted in a lot of bloodshed and destruction. Shaikh Tusi's own house and library were burnt down.

After 12 years in Baghdad, he moved to NAJAF where he established the world famous HAWZA ILMIYYAH. He died in 460 AH, and was buried there.

In the earlier days, Shaikh's important work on FIQH called al-NIHAYAH was a part of syllabus in the seminaries. The other book "al-Mabsoot" had broken new grounds for discussion on various subjects of FIQH, and great Ulama who followed, proudly set forth to give elucidatory marginal notes and commentaries on the Shaikh's opinions. Another important work in FIQH is al-KHILAF by Shaikh Tusi. This is a comparative dissertation on

Besides these, there are other treatises on FIQH written by Shaikh. For the last several centuries, whenever FUQAHA mentioned "SHAIKH", it was understood to refer to Shaikh Tusi, and if they said 'SHAIKHAN', they meant Shaikh Mufeed and Shaikh Tusi.

The descendents of Shaikh Tusi were Ulama of great repute, most outstanding among them was his son Shaikh Abu Ali who was known as MUFEED the second. He wrote a detailed commentary on his father's book al-NIHAYA. The daughters of Shaikh Tusi were also FUQAHA.

The grandson of Shaikh Tusi named Abdul Hasan Muhammad became Marja after the death of his father Abu Ali. His classes were attended by students from far and wide, and he was able to train a good number of FUQAHA. Because of his piety and austere way of life, he was respected by one and all. Imad Tabari says that if it were permissible to recite SALAWAT upon anyone other than the Apostles, he would choose Abul Hasan Muhammad. He died in 540 AH.

8. **Qadhi Abd al-Aziz,** better known as Ibn al-Barraj, was a student of both Seyyid Murtadha and Shaikh Tusi. He was sent to Syria by Shaikh Tusi, where he served in TRIPOLI (in present day Lebanon) as a Qadhi for 20 years. Among the famous books he wrote on FIQH the most noteworthy are 'MUHADDHAB' and 'JAWAHIR'. He died in 481 AH.

9. **Shaikh Abu al-Salah Halabi** of Syria, studied from Seyyid Murtadha and Shaikh Tusi. He lived for 100 years. The author of 'RAYHANATUL ADAB' mentions that Abu al-Salah studied from Sallar b. Abdul Aziz also. If this were true then it means that Abu alSalah has studied from three successive generations of the renowned FUQAHA. He died in 448 AH., which means that he was older in age than both the tutors. His famous work in FIQH is "KAFI". Shaheede-Thani calls him "KHALIFATUL MURTADHA FI BILADIL HALABIYYA", the successor of Seyyid Murtadha Alamul Huda in Aleppo.

10. **Hamza b. Abd al-Aziz Daylami,** otherwise known as SALLAR DAYLAMI died on Saturday, 6th of Holy Ramadhan, 463 AH. He is the student of Shaikh Mufeed and Seyyid Murtadha. He came from Iran, and passed his last days in Khurasan, where he was buried. He is a contemporary of Shaikh Tusi, though MUHAQQIQ HILLI has classified him among the followers of Shaikh Tusi. His famous work on FIQH is "MARASIM " .

11. **Seyyid Abu al-Makarim Ibn Zehra** was from Aleppo, and he died in 585 AH. In the faculty of Hadith, he narrates with only one link between him and Shaikh Abu Ali, the son of Shaikh Tusi, and in FIQH, he had a chain of tutors ending up with Shaikh Tusi. His famous work in FIQH is " GHUNYAH " .

The author of MUSTADRAKUL WASAEL says that Ibn Zehra studied al-Nihayah of Tusi from Ibn al-Hajib Halabi who studied it from Abdullah Zainulbadi in Najaf, and he had studied it from Shaikh Rasheed al-Deen Ali b. Zeerak Qummi and Seyyid Abu Hashim Husayni, both being students of Shaikh Abd al-Jabbar Razi, a well known student of Shaikh Tusi. Thus we see that Ibn Zehra is connected with Shaikh Tusi by four intervening generations.

In the terminology of FUQAHA, whenever a refrence is made to 'HALABIYYAN', they mean Abu al-Salah Halabi and Ibn Zehra. And if the reference is made in plural, that is, 'HALABIYYUN', then Ibn al-Barraj is included.

12. **Ibn Hamza Tusi,** known as Imad al-Deen Tusi of Khurasan, contributed to FIQH by writing his famous 'WASEELAH'. However, historians have to make further research about this FAQEEH because the date of his death is unknown, and it is not established whether he belonged to the first era of Shaikh Tusi's students or to the later ones. Most probably he died in the second half of the sixth century AH.

13. **Ibn Idrees al-Hilli** is one of the greatest Ulama, known for his independent thinking. He was an Arab, and some chroniclers have mentioned him as the grandson of Shaikh Tusi from his mother's side. But this relation has been disputed by others. He was the first FAQEEH who differed with the opinions of Shaikh Tusi at the time when FUQAHA had upheld Tusi's verdicts as final for nearly two centuries. However, his criticism of Shaikh Tusi is at time quite harsh and abrasive, bordering on rudeness. He died in 598 AH. at the age of 55.

His famous work on FIQH is "al-Sarair" which is still a book of reference. It is said that Ibn Idrees was a student of Seyyid Abu alMakarim b. Zehra but this seems improbable, especially because of Ibn Idrees mentioning him casually as his contemporary, and as one who he had met. In certain matters of FIQH, they had exchanged some letters.

14. **Shaikh Abul Qasim Ja'far b. Hasan b. Yahya b. Saeed Hilli,** famous as Muhaqqiq Hilli. He must not be confused with Allama Hilli. Muhaqqiq Hilli was Allama's maternal uncle and also his tutor. He has several books on Fiqh, most popular among them are: SHARAE, MAARIJ, MOTABAR, ALMUKHTASAR AL NAFE etc.

Muhaqqiq Hilli studied from the students of the great masters like Ibn Zehra and Ibn Idrees Hilli. Some have erroneously counted him among those who studied directly from these FUQAHA, forgetting that this was not possible because Muhaqqiq Hilli who died in 676 Hijra could not have attended the lessons of Ibn Idress or Ibn Zehra who had died more than 80 years earlier. Most probably, he was trained by his grandfather and later his father.

Muhaqqiq Hilli is acknowledged as the greatest among FUQAHA, and whenever the term 'Muhaqqiq' is used without any qualification, then it refers to him alone. The great

philosopher and mathematician, Khwaja Naseer al-Deen Tusi speaks highly of his reminiscence with Muhaqqiq who he met in Hilla, and attended his classes of FIQH. Muhaqqiq's book 'SHARAE' is still a part of curriculum in most of the Hawzas.

15. **Hasan b. Yusuf b. Ali b. Mutahhar Hilli,** renowned as Allama Hilli was a prodigy. He was born in 648 Hijra, and died in 726 AH. He remained under the tutelage of his maternal uncle Muhaqqiq Hilli for FIQH, and then proceeded to study from other masters of his era, including Khwaja Naseer al-Din Tusi who taught him Philosophy and Logic. Later, he sat with the Sunni Scholars to study their FIQH.

His works include several memorable books and treatises on FIQH, USOOL, Theology (i.e. KALAM), Logic, Philosophy and RIJAL. We know of at least hundred books written by him, some of which are still in the form of manuscripts. Each book of this great FAQEEH is enough to portray his precocity and genius. Among the noteworthy books on FIQH are IRSHAD, QAWAID, TAHREER, TADHKIRATUL FUQAHA and TABSIRATUL MUTALLIMEEN, the last being studied by the students of Hawza till today. Later Fuqaha wrote extensive commentaries on Allama's works.

16. **Fakhr-al-Muhaqqiqeen,** is the title given to Allama Hilli's son. His first name was Muhammad. Born in 682 AH., he studied under his father Allama Hilli who was so impressed by the son's brilliance that he called him Fakhr al Muhaqqiqeen. In his preface to QAWAID, Allama writes his son's name showering much praise on him, and at the end of the book prays that his son would attend to his incomplete works. His famous book on Fiqh is 'AYDHAH AL-FAWAID' which he wrote to elucidate some difficult parts of his father's QAWAID. The opinions and deductions by this great FAQEEH are still taken into account by the FUQAHA. He died in 771 A.H.

17. **Muhammad b. Makki,** also known as SHAHEED-e-AWWAL hailed from JABAL AMIL in South Lebanon, where Shias have lived for many centuries. He was born in 734 A. H., and pursued his studies under the care of great FUQAHA of his time, among them the illustrious FAKHR-UL-MUHAQQIQEEN.

The most renowned and popular work on FIQH by Shaheed is al-LUMA'H which was written by him during his short term in the prison which ended with his execution. He was martyred as a result of a fatwa issued by a Maliki faqih, supported by Shafei, in the year 786 A.H.

It is a strange coincidence that two centuries later, a faqih who wrote a commentary on al-LUMA'H (i.e. SHARH-e-LUMA'H) was also executed and martyred. He came to be known as SHAHEED THANI.

Other works by SHAHEED AWWAL on FIQH are DUROOS, DHIKRA, BAYAN, ALFIYYAH, all of them are of highest order, and have received great attention from the later

day FUQAHA.

Three great Fuqaha, namely, Muhaqqiq Hilli, Allama Hilli, and Shaheed-e-Awwal who lived during the 7th and the 8th centuries have left the principle textbooks on FIQH, which were then elucidated by the jurists who followed. The only other text worthy of mention was by Shaikh Murtadha Ansari who died nearly 150 years ago.

The most distinctive feature of the family of Shaheed-e-Awwal is that practically every member of the household was a Faqih. His wife Ummu Ali and his daughter Ummu Hasan were both FUQAHA of the first order. Ladies were instructed to refer to them for any problems of FIQH; in fact, the daughter of SHAHEED was known as "SHAIKHAH" or "SITTUL MASHAIKH", (SAYYIDATUL MASHAIKH) among the women. Shaheed had three sons, all of them FUQAHA.

18. **Fadhil Miqdad** was from HILLA, studied from SHAHEED AWWAL. He died in 826 A. H., therefore is known to be among the FUQAHA of the ninth century Hijra. The most important book on FIQH written by him is KANZUL IRFAN, in which he has compiled all those verses of the Holy Quran which form the basis of FIQH, and had deduced from them several rules of Islamic jurisprudence. Of course, there exist several books by Shia as well as Sunni scholars written in the same vein but 'KANZUL IRFAN' stands out prominently as one of the best, if not the best.

19. **Abul Abbas Ahmad b. Fahd Hilli Asadi,** popularly known as 'JAMAL AL-SALIKEEN', was born in 757 AH. and died in 841 AH. He is among the students of SHAHEED-e-AWWAL and FAKHRUL MUHAQQIQEEN. He also studied HADITH and FIQH from FADHIL MIQDAD ALI b. al-KHAZIN and Shaikh BAHAUDDIN Ali b. Abdulkarim. Though he was better known for his works on ethics, morals and mysticism, like 'UDDATU AL-DAEE', his works in FIQH include valuable book called 'al MUHDDHAB al-BARE' and commentaries on the works by Allama Hilli and Shaheed.

20. **Shaikh Ali b. Hilal Jazaeri,** was a man of piety and virtue, and a master of traditional as well as rational sciences. His tutor in FIQH was Ibn Fahd Hilli, and he himself produced brilliant students like Muhaqqiq KARAKI, and Ibn ABI JAMHUR AHSAI. He was known as SHAIKHUL ISLAM in his era.

21. **Shaikh Ali b. Abd al-Aali Karaki,** better known as Muhaqqiq Karaki or even Muhaqqiq Thani (i.e. Muhaqqiq the second) was originally from Jabal Amel, south Lebanon. He completed his studies in SHAM and IRAQ, before coming to Iran during the reign of Shah Tahmasp, the first. Then an unprecedented thing happened. The Shah bestowed the title of "SHAIKHUL ISLAMI" upon Muhaqqiq Karaki, granting him an instrument of total authority over the affairs of the state, and appointing himself as the Muhaqqiq's representative ruler! After Muhaqqiq Karaki, this seat was occupied by his student Shaikh Ali Minshar, the father-

in-law of Shaikh Bahai, the latter occupying it after the Shaikh's death.

Upon his arrival in Iran, he established a great Hawza in Qazwain and later in Isfehan, training several students of repute, with the result that Iran once again became centre of FIQH years after SADOOQAIN. He studied under the distinguished tutelage of Ali b. Hilal Jazaeri, who had studied from Ibn. Fahd Hilli. And as we know Ibn Fahd was a student of the students of Shaheed Awwal. This way, Muhaqqiq Karaki is linked with Shaheed through two generations.

Among his own famous works on Fiqh are "JAMIUL MAQASID" which, in fact, is a commentary on QAWAID by Allama Hilli. He also wrote marginal elucidations and notes on the books of Fiqh by Muhaqqiq Hilli and Shaheed-e-Awwal. His son, Shaikh Abd al Aali was also a great FAQIH. Muhaqqiq Karaki died in 940 AH.

22. **Shaikh Zainuddin,** better known as SHAHEED-e-THANI (the second Shaheed), is among the greatest Shia FUQAHA. He was born in 911 AH. in Jabal Amel, but he must have lived in TUS for a considerable time, as he occasionally signed his name as "al-TUSI, al-Shami " .

He was a widely travelled man, having visited Egypt, Syria, Hijaz, Baitul Muqaddas, Iraq and Constantinople (Istanbul). Always in pursuit of knowledge, he studied from nearly twelve Sunni Ulama of FIQH. Apart from the proficiency in FIQH, he was well versed in Usool, Philosophy, Irfan, Medicine and Astronomy.

He was a man of piety, known for his austere way of life. His students have recorded in his biography that Shaheed maintained his family by selling the woods cut by himself during the nights, and then sat to teach during the day. While in Ba'lbak, he conducted classes in Fiqh according to five schools, i.e. Ja'fari, Hanafi, Shafei, Maliki and Hambali. His famous work is the commentary on al-LUM'AH which had been authored by Shaheed-e-Awwal. His commentary, SHARHE LUMUAH is a part of curriculum in almost every Hawza even today. He studied from Muhaqqiq Karaki before the later migrated to Iran.

Shaheed-e-Thani's son wrote the famous book on Usool, called MA'ALIM-UL-USOOL. Shaheed-e-Thani was martyred in 966 AH.

23. **Ahmad b. Muhammad Ardabili,** popularly known as Muqaddas Ardabili was proverbial for his piety and austerity. He is also well known for his extensive research in Shia FIQH. He lived in Najaf, during the Safavid rule in Iran.

It is said that Shah Abbas Safavi very much wanted him to come and live in Iran, but Ardabili would not relent. Because of the esteem in which he held Muqaddas Ardabili, Shah Abbas wrote him to give an order or a command which he would dutifully fulfil. Once it so

happened that a fugitive Momin from Iran came to Muqaddas Ardabili in Najaf, requesting him to write to the Shah recommending a pardon or reprieve. Muqaddas wrote:

"The holder of temporary rule, Abbas, is advised that although this man was initially a transgressor, he now seems to be oppressed. If you pardon him, Allah may forgive some of your lapses. From the slave of Master of Wilayat (i.e. Imam Ali (A.S.)) Ahmad Ardabili".

In reply, Shah Abbas wrote:

"I bring to your esteemed notice that Abbas has rendered the service ordered by you feeling profoundly obliged. I hope you will not forget this devotee of yours in your good prayers. >From a dog on the threshold of Ali (A.S.) - Abbas " .

Ardabili's refusal to migrate to Iran in spite of the Shah's persistent requests, proved a blessing to the Hawza of Najaf. It grew in strength, and became as lively as the Hawza of Isfehan. The same way, the continuous presence of Shaheed-e-Thani, his son Shaikh Hasan, the author of MA'ALIM, and his nephew Seyyid Muhammad, the author of MADARIK, lent considerable strength and vigour to the Hawza of Sham and Jabal Amel in Lebanon. In fact, the later two deprived themselves of visiting the shrine of Hadhrat Imam Redha (A.S) fearing that they might be persuaded to live in Iran.

Though we do not know the exact names of Ardabili's tutors, he certainly acquired his training from the students of Shaheed-e-Thani In return, he tutored the son of Shaheed and his nephew.

Ardabili's noteworthy contribution to FIQH is his commentary on IRSHAD and his AYATUL AHKAM. His profound treatment of the subject is still valued by the FUQAHA. He died in 993 Hijra.

24. **Shaikh Bahauddin Ameli,** more popular as Shaikh Bahai is from Jabel Amel, Lebanon. Accompanied by his father Shaikh Husain b. Abd al-Samad, he travelled to Iran as a child. Later, he travelled extensively to various Islamic countries in search of great scholars from whom he acquired knowledge. Because of his creative talent and perception, he became a master of several faculties and has books on various subjects to his credit. He was a man of literature, a poet, a philosopher, a mathematician, a Faqeeh as well as a MUFASSIR, and had a considerable experience in ancient medicine.

He is the first FAQEEH who wrote a handbook on FIQH for simple layman in Persian language. The book, "Jame Abbasi" still exists. But Fiqh has not been counted as his exclusive subject, because the scope of his interests was so very wide. From his tour of EGYPT, SHAM, HIJAZ, IRAQ, PALESTINE, AZARBAYJAN and HERAT, the man had actually become a walking encyclopaedia. In spite of his diverse interests, he trained great

FUQAHA like Mulla Sadra Shirazi, Majlisi the first, (i.e. the father of Majlisi the second who authored BIHARUL ANWAR), Muhaqqiq Sabzwari and Fadhil Jawad. As mentioned earlier, after the death of his father-in-law, Shaikh Ali Minshar, Bahai occupied the seat of 'SHAIKHUL ISLAMI' in Iran. His wife was also a FAQIH.

Shaikh Bahai was born in 953 AH. and died in 1030 AH.

25. **Mulla Muhammad Baqir Sabzwari** was a man of many sided talents. Since he remained attached to the college of Isfehan which was renowned for both FIQH and PHILOSOPHY, he became a master of rational as well as traditional sciences. He has two famous works on FIQH, namely, 'DHAKHEERAH' and 'KIFAYAH', and is frequently mentioned by the contemporaries as well as later day FUQAHA. In philosophy) he wrote a comprehensive commentary of Abu Ali Sina's SHIFA on ILAHIYYAT (i.e. Divinities or Theology).

Mulla Sabzwari, also known as Muhaqqiq Sabzwari, was taught by Shaikh Bahai and Mulla Mohamed Taqi Majlisi (the first Majlisi). He died in 1090 AH.

26. **Aqa Husain Khwansari** also known as Muhaqqiq Khwansari, lived in the times of famous traditionists like Mulla Muhsin Faidh KASHANI, and Allama Muhammad Baqir Majlisi (the second). He was married to the sister of Muhaqqiq Sabzwari. Both of them shared common propensities, and therefore turned out to be brilliant masters of rational and traditional sciences.

Muhaqqiq Khwansari wrote 'MASHARIQ al-SHUMOOS' in Fiqh. In fact, it is a splendid elucidation of 'DUROOS' by Shaheed-e-Awaal. He died in 1098 AH.

27. **Jamal al-Muhaqqiqeen,** better known as Jamal Khwansari was Muhaqqiq Khwansari's son, equally proficient in rational as well as traditional sciences. His work in Fiqh is the famous margin of elucidatory notes on SHARHE LUMAH. He has so many students of distinction to his credit, like Seyyid Ibrahim Qazwaini and others. The famous Seyyid Mahdi Bahr-Ul-Uloom is linked to him through two generations of teachers.

28. **Shaikh Bahauddin Isfehani,** famous as 'FADHIL-e-HINDI' was a Faqih of the first rank, whose opinions are valued even today. He wrote a commentary on Allama Hilli's "QAWAID", the book is called "KASHF al-LITHAM". He died in 1137 AH. during the days of Afghan rebellion.

29. **Muhammad Baqir b. Muhammad Akmal,** popular as 'WAHEED BEHBEHANI', is, in fact, the saviour of IJTIHAD, and is therefore called 'USTADUL KULL'. He contributed to FIQH in two ways: one, he trained a number of FUQAHA, each of whom became well famed MUJTAHID of Shia school. The glittering names of Ulama like Seyyid Mahdi Bahrul Uloom, Shaikh Jafar Kashiful Ghita, Mirza Abul Qasim Qummi, Haj Mulla Mehdi Nuraqi, Seyyid Ali

the author of "RIYADH", Mirza Mehdi Shahrastani, and many others remind us of the greatness of the master. Secondly, he stood firm against the innovative onslaught of Akhbaris, and dealt them a death blow, from which Akhbari school has never recovered.

Waheed Behbehani rose at the time when Safavid empire had declined, and Isfehan had ceased to enjoy a central place. He migrated to Iraq, along with his tutor Seyyid Sadruddin Rizvi, and settled in KERBALA. Because of his piety and austere way of life, his students held him in very high esteem.

Behbehani is related to Allama Majlisi through his mother. His grandmother Amena Begum, was a woman of erudition and FIQH, married to Mulla Saleh Mezandarani, a man of profound knowledge. We have instances when Amena Begum has taken part in difficult discussions with her husband, and solving theological problems.

He was born in 1116 AH. and died in 1205 AH.

30. **Seyyid Mehdi Bahrul Uloom,** is a Faqih who has been rightly placed in the immediate rank after our MASOOMEEN (AS), because of his piety and virtue. His contribution to Fiqh exists in the form of verses. Shaikh Jafar Kashiful Ghita, himself a Faqeeh of the first order, used to wipe Bahrul Uloom's slippers with the end part of his turban.

He was born in 1155 AH., and died in 1212 AH.

31. **Shaikh Ja'far Kashiful Ghita** was born in 1154 AH. in Najaf. He studied from Waheed Behbehani and Seyyid Mehdi Bahrul Uloom. His famous work is 'KASHIFUL GHITA' from which the family derived the famous apellation, 'KASHIFUL GHITA'. Among his outstanding students are Shaikh Muhammad Hasan, the author of encyclopaedic work called Jawahir al Kalaam, and Seyyid Jawad who wrote 'MIFTAHUL KARAMAH' . All of his four sons were FUQAHA of repute, and have immensely contributed to the development of FIQH.

He died in 1228 AH.

32. **Shaikh Muhammad Hasan,** the author of an encyclopaedic work on FIQH, "JAWAHIRUL KALAM", was born in 1202 AH. He is of Arab descent. This great work has become monumental; the author spent thirty years of his prime life for its completion. The last edition printed in Iran ran into fifty volumes, each volume consisting of about 400 pages. The work is an indispensable companion of every FAQIH worth any name, since each line in it requires profound pondering and elucidation. One could say that Shaikh Mohammad Hasan was an ideal example of devotion and dedication. He died in 1266 AH., having commenced the extra ordinary work at the age of 25.

Shaikh was a student of Shaikh Ja'far Kashiful Ghita, as well as of Seyyid Jawad, the author

of 'MIFTAHUL KARAMAH'. In his time, he was a sole Marja, having established a great Hawza of his own in NAJAF. He is referred to as 'SAHIB-e-JAWAHIR'.

33. **Shaikh Murtadha Ansari** was a descendent of the Prophet's noble companion, Jabir b. Abdullah Ansari. He was born on 18th Dhul Hajj (the day of Idd-e-Ghadeer) 1214 AH. in Dezful. For 20 years, he studied in Iran before leaving for Iraq. After a brief stay there, he decided to return to Iran. When he met Mulla Ahmed Nuraqi, the author of 'ME'RAJU SSA'ADAH' and 'MUSTANAD AL-SHIAH', in Kashan, Shaikh decided to remain there under his tutelage. In 1252 AH. he decided to visit the holy shrines of Iraq, but this sojourn was destined to be final, for here he started his own classes which made him world famous. He became an indisputable MARJA' after the death of Sahib-e-Jawahir.

Shaikh was a genius of extra ordinary calibre. In Usool and FIQH, his originality and analytic mind enabled him to blaze a new path, a path which has been adopted and followed by all the subsequent FUQAHA. His two great works, 'RASAIL' and 'MAKASIB' are an inalienable part of the curriculum in modern Hawzas. We can say that after Muhaqqiq Hilli, Allama Hilli and Shaheed-e-Awwal, the figure of Shaikh Murtadha Ansari towers highest among the Shia FUQAHA. He is rightly known as ' KHATIMUL FUQAHA WAL MUJTAHEDEEN' .

He died in Najaf in 1281 AH.

34. **Haj Mirza Muhammad Hasan Shirazi** popularly known as 'Mirza Shirazi Buzurg' was born in Shiraz on 15th Jamad Al-Awwal 1230 AH. He did his preliminary studies in Isfahan and then migrated to Najaf to join the Hawza of 'SAHIB-e-JAWAHIR'. After the death of "Sahib-e-Jawahir", he joined the classes of Shaikh Murtadha Ansari, becoming one of the most brilliant and highly regarded students. After the death of Shaikh Ansari, he became the sole Marja, his tenure lasting for 23 years. He is famous for his Tobacco fatwa which led to the abrogation of the notorious British monopoly in Iran.

Unfortunately, we do not have any of his written work on Fiqh, but his verdicts and IJTEHAD have been known through his great students, like, Mulla Muhammad Kadhim Khurasani, Seyyid Muhammad Kadhim Taba Tabai, Haji Redha Hamdani, and Mirza Muhammad Taqi Shirazi. He died in 1312 AH.

35. **Akhund Mulla Muhammad Kadhim Khurasani** was born in Tus in 1255 AH., in a family not known for any contribution to FIQH. At the age of 22, he came to Tehran for a brief study in Philosophy and then travelled to Najaf where he had an opportunity of joining the lessons of Shaikh Ansari for two years. Thereafter, he studied under the tutelage of Mirza Shirazi Bururg.

When his master, Mirza Shirazi left for Samarra, Akhund Khurasani decided to stay behind in Najaf. Here he started his own Hawza. Because of his effective style of teaching he attracted

many students. It is reported that at one given time, he taught nearly 1200 students, out of whom nearly 200 were of the rank of IJTEHAD.

Great FUQAHA of our time, like Seyyid Abul Hasan Isfehani, Haji Shaikh Muhammad Hasan Isfehani, Haji Seyyid Husain Burujardi, Seyyid Husain Qummi, Aqa Zia-ud-Deen Iraqi were all his students. The Hawza of Akhund is distinguished for its extensive and analytic treatment of Usool-al-Fiqh. His great work 'KIFAYAH' is studied even today with utmost care. It is a work which has necessitated writing elucidatory footnotes and commentaries. Many Ulama of repute have attended to this need, and nearly 120 commentaries exist to explain what Akhund had to say.

Akhund Khurasani gave a fatwa in favour of MASHRUTIYYAT which was adopted in the state constitution of Iran. Akhund died in 1329 AH.

36. **Mirza Husain Naceni** was born on 17th Dhul Qa'dah 1276 AH. in Naeen. He was a student of Mirza Shirazi Buzurg and Seyyid Muhammad Fisharaki Isfehani. In his major contribution to Usool-ul-Fiqh, he differed in many matters with Akhund Khurasani, disputing the latter's conclusions. Many students were trained by him in Fiqh. He is also famous for his political treatise called 'TANZEEHUL UMMAH'. He died in Najaf in 1355 AH.

37. **Ayatullah Seyyid Abul Hasan Isfehani** was born in 1277 AH. in one of the villages on the outskirts of Isfehan. He was a Faqih of the first rank, and a sole Marja after the death of his contemporary, Mirz Husain Naeeni. The tenure of his Marjaiyyah is particularly known for its commendable administration. After his preliminary training in Isfehan he travelled to Najaf and gradually joined the lessons of Akhund Khurasani, who soon recognised the talents of his disciple His famous Amaliyya in FIQH is 'WASEELATU NNAJAT' which due to its comprehensive nature, has been elucidated by many FUQAHA including Ayatullah Khomeini. Among his famous students were Ayatullah Seyyid Mohsin Al-Hakim, Ayatullah Seyyid Meelani, Ayatullah Mirza Hashim Amuli and others.

He died in Najaf on 9th Dhul Hijjah in 1365 AH.

38. **Ayatullah Seyyid Husain Burujardi,** was born in Burujard in 1292 AH. He was a student of masters like Akhund Khurasani and Aqa Zia Iraqi. FIQH was his special interest, and in order to master it fully, he studied FIQH of all the Islamic schools of thought. While citing the Traditions of Masoomeen (AS) to support any of his deductions, Seyyid Husain Burujardi is known to have brought so many new aspects to light. He also had a keen insight in the science of RIJAL. Shaheed Mutahhari and Ayatullah Shaikh Husain Muntadhar are among his numerous worthy students.

He died in Qum on 13th Shawaal 1381 AH. at the ripe age of 90.

39. **Ayatullah Seyyid Muhsin Al-Hakim** was born in 1306 AH. in a family renowned for its scholarship. He studied under the tutelage of great FUQAHA, like Ayatullah Seyyid Muhammad Kadhim Yazdi, Ayatullah Mirza Husain Naeeni, Ayatullah Zia Iraqi and others.

He became a sole Marja after the death of Ayatullah Seyyid Husain Burujardi, with whom his family tree shared a common lineage finally reaching Ameerul Mumineen - Imam Ali b. Abu Talib (AS). The Hawza of Najaf grew immensely under his Marjaiyya, boasting nearly an unprecedented figure of 8000 students. He also instituted several changes in the curriculum of the Hawzas, which have had far reaching effects. His famous work in FIQH is 'MUSTAMSAK' which is acknowledged as the most exhaustive and enlightening commentary on the first part of al-Urwatul Wuthqa. The style and skill of his reasoning established him among the FUQAHA of the first rank. He is also well known for his clear fatwa against Communism, declaring it an ideology of KUFR and ATHEISM.

He died on 27the Rabi-ul-Awwal 1390 AH. in Najaf and was buried in the great and modern library he had established.

40. **Ayatullah Seyyid Abul Qasim El-Khoee** was born in Khuy, on 15th Rajab, 1317 AH. He came to Najaf at the age of 13 with his father Seyyid Ali Akbar El-Khoee. After completing his preliminary studies at the age of 20, he joined the final classes under great tutors like Shaikh al-Shariah Isfehani, Shaikh Muhammad Husain Isfehani, Shaikh Zia Iraqi and Mirza Husain al-Naeeni. Ayatullah El-Khoee's main contribution was to Usool al-Fiqh, but he was also a great FAQEEH, in a sense that his classes on FIQH were attended by some of the most prominent scholars of his time. After the death of Ayatullah Seyyid Muhsin Al-Hakim in 1971 AD. he became a sole Marja. His tenure of Marjaiyyah was tumultuous, and it lasted for nearly 22 years. He died on 8th Safar 1413 AH. (i.e. 8th August 1992).

It is said that the number of great FUQAHA trained by him during the five decades of constant teaching exceeds one thousand.

SUMMARY

We have briefly introduced 40 great lives from the world of FIQH, starting with the era of Ghaybat-e-Sughra till the onset of fifteenth century Hijra. These were the prominent jurisconsults of Shia sect whose names and works have guaranteed the life and growth of Islamic Shariah. However, it must be mentioned that there were many others whose contributions cannot be underestimated, and some o them have been referred to in this brief treatment. Following important points emerge from the above:

a) Fiqh has had a continuous growth right from the third century Hijra, and it has been taught and developed incessantly in the great Shia seminaries. If we were to take the example of Ayatullah Seyyid Abul Qasim El-Khoee, we can connect him upwards with his masters one

generation after another, forming a glorious chain which links with the era of our Imams (AS). This continuity is unique in Islam and what is more noteworthy is that the continuity made Islamic guidance available to the Ummah at all times and in varying circumstances .

The reason for starting from the third century Hijra is not because no FUQAHA existed before that time. It is because the era earlier than Ghaybat-e-Sughra was the era of our Imams (AS) and in their presence FUQAHA obviously were eclipsed. However, we know their namev and we also possess a list of their works on fiqh. For example, the earliest work on record is the book on Fiqh written by Ali b. Rafe' who lived during the time of Imam Ali b. Abu Talib (AS). Ali b. Rafe's brother Abdullah was Imam Ali's (AS) scribe as well as official in charge of Treasury.

b) It is not true to say that fiqh and other Shia teachings were promulgated by the Iranians alone. Till tenth century Hijra, the contribution mainly sprang from non-Iranian sources. Later, during the Safavid rule in Iran, Iranian scholars became major contributors.

c) Iran has not always been the centre of FIQH. In fact, the earliest organised Shia Centre of FIQH is traced in Baghdad, followed by Najaf during the days of Shaikh Tusi. Later, it was matched by Jabal Amel (Lebanon), Hilla (Iraq) and Aleppo (Syria). Isfehan (Iran) became known as a centre of FIQH during the Safvid regime, but at the same time Muqaddes Ardabili revived the Hawza of Najaf.

As far as Qum is concerned, it had a progressive Hawza during the bloom of Baghdad, centred around personalities like Ibn Babawayh, Ibn Qawlawayh and others. Then there was a period of decline, till its regeneration during the Qajar dynasty, under the supervision of Mirza Abul Qasim Qummi, the author of monumental 'QAWANIN'. With the growth of Hawza in Najaf, Qum again withered away till the third revival took place under Shaikh Abdulkarim al-Haeri in 1340 AH. Today, as we pen these lines, Qum is the greatest seminary of FIQH and other Islamic branches of knowledge. With the onslaught of BA'THIST infidelity in Iraq, the Hawza of Najaf has disintegrated. Hopefully, this is one of the temporary phenomena which make their appearance in history. Allah knows best, and upon Him we rely.

No doubt, the growth of smaller Hawzas in Iran had been noticeable, and they were quite prolific. Mention should be made of FIQH being taught at its highest level in MASH-HAD, HAMDAN, SHIRAZ, YAZD, KASHAN, TABREEZ, ZANJAN, QAZWAIN, and KHWANSAR. But these never grew up to reach the magnitude of Hawza in Qum.

d) It must be acknowledged that the impact of FUQAHA of JABAL AMEL, like Muhaqqiq Karaki and Shaikh Bahai, has been great and decisive. The Safavids themselves, as it is known, were more inclined towards TASAWWUF and mysticism. Had it not been for these FUQAHA who decided to migrate and live in Iran, establishing the great college of Isfehan,

Iran would not have been what it is today in as far as promulgation and development of FIQH is concerned.

e) As Shakeeb Arsalan has mentioned, Shia School in Jabal Amel is centuries older than the one in Iran. Some historians have indicated that the school of Ahlul Bait (AS) in Jabal Amel was established by Abu Dhar Ghifari, the noble companion of our Prophet (s.a.w). Abu Dhar lived in Sham which in those days included all or parts of Lebanon, condemning the wealth being unscrupulously amassed by Mua'wiyah and his lackeys, at the same time preaching the Shia faith.

f) We feel that the contribution of FUQAHA in India must not be ignored. In order to give a balanced view of the global development of FIQH, we would like to briefly introduce some of the renowned names in Shia history of India:

1. Seyyid Dildar Ali, popularly known as Ghufran Ma'ab, was the son of Seyyid Muhammad Muin bin Seyyid Abdul Hadi. It would seem that his family, like many other Seyyid families, left Nishapur (Iran) because of the Mongol invasion and settled in India. He was born in 1166 AH. He completed his early studies in India, and in 1193 AH travelled to Iraq for further studies. Among his tutors in Iraq were great Fuqaha like Shaikh Ja'far Kashiful Ghita, and Wahid Behbehani. Later, he went to Mashhad (Iran) for further studies.

Seyyid Dildar Ali, while in India, was of Akhbari persuasion, but he changed to Usuli school after his intensive studies in Iraq. Upon his return to Lucknow, he became a Marja' in India, his fatwas being regarded as final by the Shia populace.

His magnum opus in Theology (Ilm-ul-Kalam) is known as "Imadul-Islam" which he wrote in Arabic, in refutation of anti-shia arguments by Fakhr-ud-Din Razi. His detailed work in FIQH is 'MUNTAHAL AFKAR'. His sons were also pious, dedicated scholars and teachers.

Seyyid Dildar Ali died in the night of 19th Rajab 1235 (2nd May 1820), and was buried in Lucknow.

2. Mufti Mohammad Abbas son of Seyyid Ali Akbar Jazaeri Shushtari, was born at the end of Rabi-ul-Awwal 1224 AH. (15th May 1809). As a child, he was gifted and precocious, having composed an Urdu MATHNAVI on Shia doctrines at the age of 12. More than 150 of his books have been published but a large number still remain in manuscript form. He never visited Arabia, yet Arab scholars were impressed by his Arabic prose and poetry.

His deep understanding of FIQH prompted Sultanul Ulama, Seyyid Mohammad, son of Ghufran Ma'ab, to appoint him the MUFTI of Lucknow. Mufti Mohammad Abbas compiled a guide book for the Qadhis and Mufties of AWADH and the principles laid down by him were followed by the judiciary.

He had six sons, one of them Mufti Seyyid Ahmad Ali (died in 1969) was also a Faqih of repute. He was the principle of Nazmia Arabic College, Lucknow.

Mufti Mohammad Abbas died on 25th Rajab 1306 (27th March 1889) at Lucknow.

3. Seyyid Hamid Husain, son of Mufti Muhammad Quli, was born in Meerut, India, on 5th Muharaam 1246 (27th June, 1830). He studied Arabic literature with Mufti Mohammad Abbas, and Sayyidul Ulama Seyyid Husain (the youngest son of Ghufran Ma'ab) trained him in FIQH and Usool.

Seyyid Hamid Husain acquired his knowledge of the Islamic sciences in India, and although he visited many scholars during his pilgrimage to Arabia and Iraq, his main interest lay in collecting books and manuscripts for doctrinal and historical research. Ulama of Iran and Iraq have paid glowing tributes to him in their evaluation of his copious contributions, particularly the encyclopaedic work on Imamah, called 'ABAQATUL ANWAR'.

Ayatullah Seyyid Muhsin Amili in his 'A'AYANU SSHIA' says: " A man of his eloquence, proficiency in Traditions, Islamic history and Theology is not to be found during his time. In fact, neither before nor after. If we said that a scholar of his status has not appeared after the era of MUFEED and MURTADHA, it would not be an exaggeration…"

His work on FIQH includes "AL-DHARAE" which is a commentary on 'SHARAE', 'ZAINUL WASAIL', 'AL-SHARIAH AL-GHARRA', 'AL-NAJM AL-THAQIB' and others.

4 **Seyyid Najmul Hasan,** popularly known as Najmul Millat. He was the son of Seyyid Akbar Husain of Amroha. Seyyid was born on 6th Dhul Hijja 1279 (25th May 1863). He was a favourite disciple and son-in-law of Mufti Muhammad Abbas. He studied all the higher faculties, including Fiqh and Usool in India, under the tutelage of Abul Hasan Abbu Sahib and Mufti Muhammad Abbas. Himself a Faqih of the first rank, he trained several Ulama like Seyyid Sibte Hasan, Seyyid Adeel Akhtar and Hafiz Kitayat Husain. He will ever be remembered for his services to the Shias of Tibet, Burma, Africa, and countries in the West, rendered through the missionaries trained in his Madrassah Nazmiah, Lucknow.

He died on 17th Safar 1351 AH (18th April 1938).

CHAPTER 3

THE CHAPTERS AND TITLES IN FIQH

As mentioned earlier, the range of topics covered by Fiqh is very wide. It is therefore necessary to briefly acquaint oneself with the chapters and headings of these subjects. The only subjects which are outside the pale of Fiqh are the fundamentals and the Islamic ethics.

It must be noted that the classification of the subjects under Fiqh was first organised by Muhaqqiq Hilli in his famous work 'SHARAE', and later, 'SHAHEED-E-AWWAL', glossed over it. He divided the topics into four parts: IBADAAT, (acts of worship), UQOOD (contracts), IQAA'AT(pronouncements) AHKAM (the laws).

IBADAAT- All those acts which ought to be performed as prescribed in Sharia, and must be preceded by the NIYYAH of QURBAT are known as IBADAAT. e.g. daily prayers, fasting, Haj etc.

AHKAM - Those duties which are to be discharged according to Sharia, but do not necessarily require any NIYYAH of QURBAT nor do they require any pronouncement of specific formula while performing them are called AHKAM. For example, the laws of inheritance, the penal code, the laws of compensation and blood money etc.

UQOOD- Those contracts of Sharia which do not require the NIYYAH of QURBAT, but are to be declared with the pronouncement of a formula in which one party declares the intention and another responds by acceptance, are called AQD (pl. UQOOD) for example, Marriage (Nikah), Ijarah (letting or leasing), Bay' (buying and selling) etc.

IQA'AAT- Those pronouncements which do not require participation of two parties. In other words, a person pronounces it unilaterally, and the act is considered valid in Sharia. For example, remission of debt (releasing a debtor from his liabilities), divorce, and releasing a slave etc.

Muhaqqiq Hilli has discussed all the four categories under forty eight Chapters. In Ibadaat, he has ten chapters, in Uqood fifteen, in Iqa'aat eleven and in Ahkam twelve. Later, these numbers have had some alterations which we shall notice in the course of our discussion.

In the early era, that is, the first and the second century Hijra, the FUQAHA chose one or two

topics of FIQH and wrote about them. They did not venture to write a comprehensive work covering the whole range. As we study their lives, we find that they have authored books on SALAT, IJARAH, NIKAH and so on. Instead of stating that they have dealt with a particular chapter in FIQH, they named each separate treatise as KITAB. Thus, we come across 'KITBUN NIKAH', 'KITABU TTAHARAH' and so on.

Let us now examine how Muhaqqiq Hilli divided IBADAAT in ten chapters.

CHAPTER 4

IBADAAT First Chapter - KITABU T TAHARAH

Taharat means cleaning from the impurities, which are of two types: KHABATH and HADATH.

Those impurities which have been specified as inherently NAJIS like urine, excrement, blood, semen etc. are called KHABATH. When our bodies or clothes come into contact with them, they have to be made clean. Then there are certain acts of Taharat which are ritual and are a prerequisite to the acts of worship like Namaz and Tawaf. These are WUDHU, GHUSL or TAYAMMUM. They are invalidated by natural causes like sleeping, urinating or entering into a state of JANABAT, and they have be reinstated.

Second Chapter - KITABUS SALAAT

In this chapter, various prayers like the daily Namaz, Namaz of Idd, Namaz-e-Mayyit, Namaz-e-Tawaf, Nafila etc are outlined. Then the laws which explain the prerequisites of SALAAT, and the acts which invalidate the prayers are elaborated. Details are given about Namaz in one's own home town, Namaz of a traveller, Namaz prayed alone, and the one in congregation (JAMAAH), Namaz prayed on time, and those as QADHA.

Third Chapter- KITABUZ ZAKAH

In this chapter, various types of wealth tax are discussed, especially the one whicll is applied to Gold, Silver, Wheat, Barley, Dates, Grapes, Cattle (big and small) and Camels. Details of percentage levied, and the ways of spending Zakat are also explained.

Fourth Chapter - KITABUL KHUMS

Khums means one-fifth (20%) and is also a type of wealth tax. According to SUNNI FIQH, this is applicable to the spoils of war only. But in our FIQH, the spoils of war are just one of the many other incomes and accruals on whicl1 ICHUMS is to be paid. For example, the minerals, the treasures, the wealth which is mixed with HARAM in a manner that it cannot be extricated, and its rightful owner cannot be traced, the wealth acquired by diving, and the net savings and profit in businesses etc.

Fifth Chapter - KITABUS SAWM

This chapter deals with the laws governing fasting, and distinguishes obligatory fasts of the month of Ramadhan from other categories. For example, the forbidden fasts on IDD days, the MAKROOH fast on ASHURA day, and so on.

Sixth Chapter - KITABUL I'TEKAF

Literally, it means to retire into a place. In FIQH, it is a form of worship. When a person wishes to do I'TEKAF, he has to retire into a mosque for three days or more, and fast for three days. He remains secluded, not stepping out of the mosque. This act is optional in itself, but if one commences it and continues for two days, then it is WAJIB to complete the third day. Originally I'TEKAF was to be observed in MASJIDUL HARAM (i.e. Makkah), MASJIDUL NNABI (i.e. Madinah), MASJID of KUFA. But it is also allowed in the central mosques of any town or city, excluding small mosques. The Prophet (s.a.w.) always observed I'TEKAF in the last ten days of holy RAMADHAN.

Seventh Chapter - KITABUL HAJ

This deals with all the obligatory and optional acts, during pilgrimage to Makkah, like wearing IHRAM, TAWAF, NAMAZ OF TAWAF, WUQOOF at ARAFAH, MASHAR, MINA etc.

Eighth Chapter - KITABUL UMRAH

It is a smaller or lesser Haj, and it is obligatory for the Hajis who must perform it first before proceeding to complete the Haj. It consists of Ihram, Tawaf, Namaz of Tawaf, Saee', Taqseer.

The acts of Umrah are performed in the following order:

1. Ihram
2. Tawaf
3. Two Rakaats of Tawaf
4. Saee (between SAFA and MARWAH)
5. Taqseer

In Haj, the order is as follows:

a) Ihram

b) Wuqoof at ARAFAH

c) Wuqoof at MASHAR

d) RAMI of the last JAMARAH at MINA

e) Sacrifice of animal

f) To shave off the hair, or cutting nails etc.

g) Tawaf of Haj

h) Two Rakaats for Tawaf

i) Saee' for Haj

j) Tawaf-un-Nisa

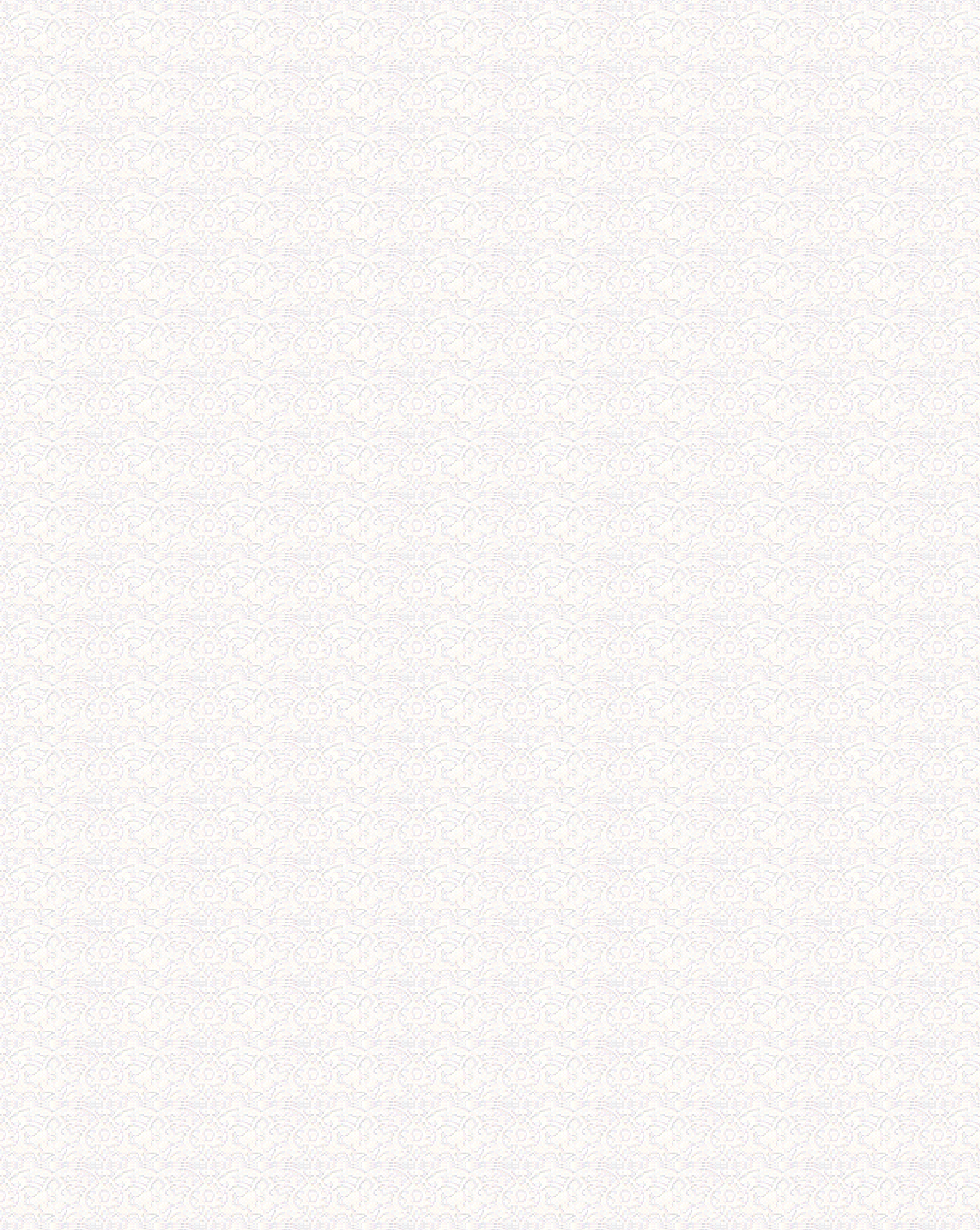
k) Two Rakaats for Tawaf-un-Nisa

l) Staying at night in MINA m) Rami of all JAMARATS in MINA

Ninth Chapter - KITABUL JIHAD This chapter deals with the holy wars which is deemed absolutely necessary for the preservation of security and welfare of a society. Jihad can be of two types:- One initiated and another defensive. Shia FIQH stipulates that in order to initiate a Jihad, consent must be had from the Prophet (s.a.w) or any Masoom Imam. As for the defensive holy war, it can be waged as and when it becomes necessary. This chapter also deals with the laws pertaining to DHIMMIS who seek refuge under an Islamic state, and about truce and peace treaties between Islamic and non-Islamic countries.

Tenth Chapter - AMR BIL MA'ROOF and NAHY ANIL MUNKAR

In an Islamic society, it is the responsibility of every Muslim to enjoin good and forbid evil. Of course, there are conditions and regulations for carrying out this duty. This chapter deals with them extensively.



CHAPTER 5

UQOOD (Contracts)

Muhaqqiq Hilli has divided this into fifteen chapters.

Chapter One- KITABU TTIJARAH It deals with purchase and sale, conditions of transactions, types of transactions like cash or credit sales, profits, usury, and so on. It also explains rules of contracts, pronounced or by conduct.

Chapter Two - KITAB-AL-RAHN Deals with buying or selling a mortgage.

Chapter Three - KITAB AL-MUFLIS Muflis means a bankrupt, who cannot pay off his debts. The Islamic jury would immediately issue an order to restrain such a person from using his wealth till such time when a thorough assessment has been made, and possible payments to the creditors have been arranged.

Chapter Four - KITAB AL-HIJR It is an interdiction where an owner of wealth or property is restrained from having any say in its use, like in the cases of a bankrupt, a minor, an insane person, a dying person who intends to will beyond his right of one-third, a fool etc.

Chapter Five - KITAB AL-DHAMAN

It means a warranty or guarantee. In Shia FIQH, a guarantor becomes responsible for the debts, to the exclusion of the debtor, but the guarantor can call for reimbursement from the debtor. Muhaqqiq Hilli has included all sureties and promissory notes in this category.

Chapter Six - KITAB AL-SULH

Sulh here does not mean peace agreement or truce. It actually means settlement, concession or compromise. For example, to settle a debt whose exact figure is not known by offering a certain sum, and so on.

Chapter Seven - KITAB AL-SHARIKAH

It means joint ownership, like in the case of inheritance. As long as it has not been divided, it belongs jointly to all the heirs. It also means partnership. Interestingly, there are cases of

unwilling partners, when wheat owned by one person gets mixed up with wheat belonging to another, and separating is impossible. Partnership in businesses, industries and agriculture are contracted by an agreement.

Chapter Eight - KITAB AL-MUDHARIBAH

It is a partnership between capital and labour. When a man or a group of men investing their capital for a business, enter into an agreement with those who will put in their labour or will manage, they must first agree about the share of dividends, and then either pronounce a formula for MUDHARIBA, or make some practical gestures.

Chapter Nine - KITAB AL-MUZARI'AH OR MUSAQAT

This is a type of MUDHARIBA, but with a difference. Instead of an arrangement between a businessman, an industrialist and a worker, it is an agreement between a landowner and a person who will work to till the land and carry out plantation, with a clear understanding about profit sharing when the harvest is ready. MUSAQAT is an arrangement between the farmer or garden owner, and the worker who undertakes to water the garden etc. and do all such work which would help the harvest or fruition. Again, it is absolutely necessary that a prior agreement on the proportion of profit to be shared by each is reached. In MUDHARIBAH, MUZARIAH and MUSAQAT, the profit, little or more, is proportionately shared, but the losses are borne by the capitalist alone.

Chapter Ten - KITAB AL-WADEE'AH

This is just like AMANAT, where a person deposits his property in trust with another person, making him responsible for its protection and security. This chapter deals with the responsibilities of the trustee, particularly in the circumstances of loss or damage.

Chapter Eleven - KITAB AL-ARIYAH

To borrow something from a person, with an intention of benefiting from it. The difference between this and WADEEAH is that in WADEEAH a person is given something to hold in trust, with no permission to use it in any way; while in ARIYAH, a person agrees to lend his property to another person with a clear understanding that the latter will use it to derive some benefit. Simple example are lending a car to someone for his use, lending clothes for wearing etc.

Chapter Twelve - KITAB AL-IJARAH

To hire, or give on rent. This is done in two ways. Either one gives away his property to another for use against an agreed sum of rent, or one undertakes to complete a certain peace

of work against payment. This arrangement has one common feature with ordinary purchase and sale - in both the cases, something is given in return. The difference is that in any business or sale, a commodity is exchanged with money or its value, while in IJARAH, the property itself is not exchanged, but its utilisation or benefit is hired or rented out.

Chapter Thirteen - KITAB AL-WAKALAH

To appoint someone authorising him to enter into a contract on one's behalf or to make a certain commitment. The example is when a WAKIL is appointed for Nikah, Ijarah, Selling, Divorce, etc.

Chapter Fourteen - KITAB AL-WUQOOF & SADAQAT

This deals with endowments and charities. WAQF means to exclude ones own property from ownership and give it away for a particular use. In other words, it is an endowment settled for public use. Many laws govern this act, and FUQAHA debate over whether WAQF requires an intention of QURBAT or not. Then there are laws about WAQF KHAS (family endowments) and WAQF AAM.

Chapter Fifteen - KITAB AL-SUKNA WAL HABS

It is another type of endowment but with a difference. While WAQF is permanent, where the owner gives away his property forever, SUKNA is a temporary arrangement. In it, a person gives away his abode or house to a deserving person for a fixed period of time. When the time expires, the property is restored to him, as its rightful owner. HABS means a temporary bequest for charitable purposes. In this arrangement, the property itself is not given away; only its accruals or benefits are bequeathed for a certain period, upon expiration of which the benefits revert to the owner.

Chapter Sixteen - KITAB AL-HIBAT

Deals with the gifts. One can only settle a thing which he rightfully owns as a gift. They are of two types: a gift given in exchange or a gift given away without any return. Gifts given in exchange or substitute cannot be claimed back, but that which is given away without any exchange can be claimed back. But if this unconditional gift has been settled on ones own relatives, or if its original form has been changed or destroyed, then it cannot be reclaimed.

Chapter Seventeen - KITAB AL-SUBQ WA AL-RAMAYAH

Deals with racing and shooting, a chapter which falls under subsidiary laws of JIHAD. Islam forbids wagering, betting or staking, but allows training for racing or shooting or marksmanship as a prelude to military skills.

Chapter Eighteen - KITAB AL-WASIYYAH

This relates to making of the Will, testament etc. in respect of one's estate and minor heirs. Man has a right to appoint an executor or administrator for the purpose. He can direct the appointee to look after his minor children, educate them and provide them with necessary training. Similarly, he can direct him to use upto 1/3 of his estate in the manner he, the testator, prefers.

Such directives are of three types: One is related to distribution of his money and property, another can be about performing certain duties, like Haj, Ziyarat, Qadha Namaz, Fasts, etc. The last one concerns releasing from the bondage, like when he directs that a particular slave be set free upon his death.

Chapter Nineteen - KITAB AN-NIKAH

Marriage Contract. In this chapter, Fuqaha discuss several aspects, including the conditions, the types of woman or man one can marry, prohibition in marriage, temporary marriages, permanent marriages, maintenance of the wife and the children and so on.

Though Muhaqqiq Hilli had enumerated 15 chapters, we observe that there are more. Possibly, Muhaqqiq amalgamated certain chapters under one heading.

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CHAPTER 6

IQAAAT (Unilateral Pronouncement)

Muhaqqiq divided these into eleven Chapters. In IQ'AA pronouncing a formula is necessary, but it does not have two sides. It is done unilaterally.

Chapter One- KITAB AL-TALAQ

Dissolution of marriage - It is either Absolute (Bain) or Revocable (Raje'e). The revocable Talaq is that in which the husband has the power of revocation during the IDDAT period, while in the absolute, the husband has no power of revocation. This chapter discusses all the laws in this connection. It also sets down all the conditions for Talaq to be valid.

Chapter Two - KITAB AL-KHULA' & MUBARAAT

These are two other types of absolute divorce. Khula' is when wife has a dislike for her husband and asks him to divorce her in exchange of a sum, or all or part of her MAHR. In such a case, when the husband agrees to divorce, he forfeits the power of revocation, except when the wife agrees to take back the money or ransom she gave.

Mubaraat is when dislike is mutual, and in this case also the wife has to pay some ransom to the husband. However, the ransom paid in the case of Mubaraat should not exceed the Mahr. This divorce is also absolute.

Chapter Three - KITAB AL-DHIHAR

In the pre-Islamic era, when husband said to his wife "you are on me like the back of my mother", it was construed as Divorce. Islam has effected an important change. It does not recognise DHIHAR as a form of divorce, but whoever does this ought to pay KAFFARA before he can resume conjugal relations with his wife. This kaffara is freeing a slave, and if that is not possible, he svill fast for two consecutive months. And if that is not possible also, then he should feed sixty poor.

Chapter Four - KITAB AL-EELA'

It is an oath by God, wherein the husband swears that he would never have conjugal relation

with his wife, or that he would not have the relation for a period exceeding four months. In such a case, when the wife complains to Hakime Shara', the husband would be given a choice either to divorce her or to abrogate the oath. Naturally, if the husband abrogates the oath, he will pay the expiation (kaffara). In general, Islam forbids abrogating the oaths, but in this case it recommends.

Chapter Five - KITAB AL-LIAN

This chapter deals with the slander or denial of a child. The law of accusing someone without adequate proof etc. are also discussed. Husband stands before Hakime Sharia and pronounces LIAN, saying four times: "God is my witness, that I am truthful in my accusation against my wife". Then he says: "May God curse me if I were not speaking the truth". Thereafter, the wife says four times: "God be my witness that my husband has lied and accused me wrongly". Then she adds: "Curse of God befall me if I was lying". When this process is complete, the marriage is irrevocably dissolved.

Chapter Six - KITAB AL-ITQ

It discusses about freeing the slaves. Islam does not encourage slavery, that is why we do not find a chapter on 'al-Riqq', (enslaving); the only chapter is 'al-lTQ' (freeing, liberating). The chapter outlines circumstances in which the slaves are voluntarily or automatically liberated.

Chapter Seven - KITAB AL-TADBEER, MUKATIBAH & ISTEELAD

This chapter deals with specific circumstances whicl1 lead to freeing the slaves. Al-TADBEER is when the master makes a will stating that his slave will be free upon his death. MUKATIBAH is when a slave wishes to enter into an agreement witl1 his master that he be freed in exchange of some consideration. The Holy Quran says that if the master finds the slave capable and righteous, he should accede to the wishes of the slave, and also endow him with some of his own wealth. ISTEELAD is an automatic process. When a female slave, for example, becomes pregnant by her master, such a female slave will revert to her offspring upon her husband's (master's) death. And since she is the mother, and Islam does not allow anyone to be a slave of his or her forebearers however high, and descendants however low, the female slave will automatically be free.

Chapter Eight - IRITAB AL-IQRAR

It deals with admission and is connected with the judiciary. When a person makes a claim against someone and has no evidence or witness to substantiate it, the claim is not admissible. But if the debtor himself wishes to admit the debt, which is IQRAR, then it is deemed adequate.

Chapter Nine - KITAB AL-JIALAH

It means offering a wage or reward. Apparently, it resembles the act of hiring a worker or a labourer for a particular piece of work against agreed amount. But in JIALAH, the employer does not hire a particular person, he makes a public announcement stating that whoever would do a certain job for him, he would pay him a certain amount.

Chapter Ten - KITAB AL-AYMAN

AYMAN is plural of YAMEEN, which means an oath. In this chapter, the sanctity of a religious oath, taken in the name of Allah, is discussed. It describes the implication of taking an oath in the name of Allah, the types of oath, perjury and the expiation for one who breaks the oath.

Chapter Eleven - KITAB AL-NADHR

NADHR is a solemn vow, or pledge made in the name of Allah. It explains the formula which one has to pronounce or at least to have it in mind before NADHR is formally established, and the occasions for NADHR. A Nadhr made for a MUBAH (ordinarily permissible) thing, having no legitimate benefit here or hereafter, is not valid. Both oath and NADHR are a covenant made witl1 Allah and they must be honoured.

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CHAPTER 7

AHKAM

Muhaqqiq Hilli has given the above name to this category, since the topics which fall under it are neither acts of worship nor contracts or unilateral pronouncements. He has divided this into 12 chapters.

Chapter One- KITAB AL-SAYD AND AL-DHABAHA

This chapter deals with hunting and slaughtering of those animals whose meat we are allowed to eat. SAYD is hunting, DHABH is slaughtering. An animal who has not been hunted as prescribed in Sharia, or has not been slaughtered as guided by Islam, will be 'MAYTAH', a corpse which is NAJIS, and HARAM to eat. This chapter also deals with the hunting of wild animals by trained hunting dogs.

Chapter Two - KITAB AL-AT'IMAH AND AL-ASHRIBAH

This chapter deals with those things which we are allowed to eat or drink, and those which are forbidden. A detailed treatment is given to animal food, sea food, non-animal food and so on. It also explains and categorises those animals which are Halal and those which are not. And even in the Halal animals, it tells us of those parts of the body which are HARAM to consume. It also gives rational treatment to those acts which may be ordinarily permissible and harmless, but are harmful for a particular person in a given circumstance.

Chapter Three - KITAB AL-GHASB

It means an illegal possession of property, or usurpation. As is known, GHASB is Haram, but it must also be known that it involves a liability. That means if a person usurps someone's property and if that property is damaged or destroyed while still in his illegal possession, he is liable for it, even if he did not directly damage or destroy it, but was instrumental in causing the damage or destruction.

Chapter Four - KITAB AL-SHUF'AH

Means the right of preemption. When a partner wishes to sell his share, the remaining partner has a right of preemption for acquiring the share by buying it at the price offered by others.

Chapter Five - KITAB IHYA AL-MAWAT

Mawat refers to the barren, uncultivated land. A land which has been developed, either by building upon it or by cultivation is called "AMIR" in FIQH. The Prophet (s.a.w) said: "Whoever gives life to a barren, uncultivated land, that land belongs to him". This has numerous ramifications, explained under the chapter.

Chapter Six - KITAB AL-LUQTAH

This refers to things which are picked up by chance, and the owner is unknown. This can apply to animals and non-animals. If a stray animal is found which is not in anyway endangered, then one should not take it into custody. But if it faces any danger, then it can be possessed with the intention to return it to its owner if found. If the owner is not found, then Hakime Shara' has to authorise its use. This chapter also deals with non-living objects, found in the sacred precincts of Haram or outside, basing the guidelines on the value of the object.

Chapter Seven - KITAB AL-FARAIDH

It is an elaborate chapter dealing with the laws of inheritance. Heirs are divided in three categories:

(1) Parents, children, grandchildren (when the children are not present) .

(2) Grandparents, brothers and sisters (and in their absence, their children).

(3) Uncles, aunts (both paternal and maternal) and their children.

The above heirs are by NASAB (i.e. consanguinity). There are heirs who inherit by SABAB (i.e. affinity) like husband and wife. This chapter deals with various cases of succession in great detail. The testator does not have the right to will for more that one-third of his or her estate, nor does he or she have any right to fix up the shares of his or her heirs. The estate devolves on the heirs according to Shariah.

Chapter Eight - KITAB AL-QADHA

It is a chapter on judiciary, with elaborate sets of laws. There are laws governing the appointment of judges, their rights, their emoluments, and also about disqualifications. In FIQH, it is stipulated that a Judge must be an acknowledged Mujtahid.

Chapter Nine - KITAB AL-SHAHADAH

About the witnesses, who constitute the evidence to substantiate a claim. The onus of providing the evidence does not rest on the defendent. The chapter also explains how, in certain cases, the defendent may be called upon to take an oath.

Chapter Ten - KITAB AL-HUDOOD & TA'ZEERAT

Deals with punishment and retribution. These are of two types: HUDOOD and TAZEERAT. HUDOOD are fixed punitive measures prescribed for specified offences, like sodomy, false accusation of fornication, drinking alcohol etc., stealing, belligerency and so on. TAZEERAT are such retributive measures which may vary according to the decision reached by the judge who may aggravate or mitigate the sentence.

Chapter Eleven - KITAB AL-QISAS

It is a chapter on requitals. An elaborate discussion is carried out about the crimes committed advertantly or inadvertantly, and in each case the extent of requital is prescribed. Then there are laws of recompensing for those who are murdered or are inadvertantly killed.

Chapter Twelve - IlITAB AL-DIYAT

It is a form of requital, but unlike QISAS, it is only monetary compensation. Interestingly enough, a doctor's responsibility towards human life, and a disciplinary action by a tutor have a place under this chapter. A doctor must be qualified enough to treat a patient. If he is not and if the patient dies during the treatment, he is liable for compensation. In any case, a qualified and efficient doctor must absolve himself of the liability beforehand. Similarly, a tutor carrying out corporal punishment must be careful not to cripple or kill the pupil. If he does, he is liable for compensation. These are dealt with in some detail.